

OCT 04 2005

This facsimile message and its contents are legally privileged and confidential information intended solely for the use of the addressee. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this message and its contents is strictly prohibited. If you have received this telecopy in error, please notify us immediately by telephone and return the original message to us at the address shown below via the Postal Service. Thank You.

**ALSTON & BIRD LLP**

3201 Beechleaf Court, Suite 600  
Raleigh, NC 27604-1062  
919-862-2200  
Fax: 919-862-2260

**TELECOPY****PLEASE DELIVER AS SOON AS POSSIBLE****Date:**

September 6, 2005

**Recipient:**

Mail Stop AF and  
Mail Stop Appeal Brief - Patents

**Company:**

U.S. Patent & Trademark Office  
Art Unit 1638

**Fax Number:**

571-273-8300

**Voice Number:**

571-272-0547

**Sender:**

Leigh W. Thorne

**Message:**

Re: U.S. Patent Application for Genes Encoding Novel Bacillus Thuringiensis Proteins  
with Pesticidal Activity Against Coleopterans [Title as Amended 5/29/03]  
Appl. No. 10/032,717; Filed October 23, 2001  
Attorney Docket No. 035718/237005 (5718-118)

Attached please find the following

Amendment After Final (7 Pages)

Appeal Brief Transmittal (1 Page)

Appeal Brief Under 37 CFR § 41.37 (25 pages) plus

- Claims Appendix --Appealed Claims (4 pages)
- Evidence Appendix
  - Appendix A - Li et al., pp. 815-821 (7 pages)
  - Appendix B - Pfam Searches (10 pages)
  - Appendix C - Rule 132 Declaration of André Abad (3 pages)

RECEIVED  
OIFE/IAP  
OCT 05 2005

Number of Pages: (including cover page) **63****IF NOT RECEIVED PROPERLY, PLEASE NOTIFY US IMMEDIATELY AT 919-862-2221.**

|                                     |                                       |
|-------------------------------------|---------------------------------------|
| <b>USER CODE:</b> THORL             | <b>REQUESTED BY:</b> Nora C. Martinez |
| <b>CLIENT/MATTER:</b> 035718/237005 | <b>OPERATOR:</b>                      |

RTA01/2189062v1